

31.110 Persons entitled to department representation and services -- Extent of representation and services -- Rights of representation for persons subject to proceedings under KRS Chapter 202C.

- (1) A needy person who is being detained by a law enforcement officer, on suspicion of having committed, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, or who is accused of having committed a public or status offense or who has been committed to the Department of Juvenile Justice or Cabinet for Health and Family Services for having committed a public or status offense as those are defined by KRS 610.010(1), 610.010(2)(a), (b), (c), or 630.020(2) is entitled:
 - (a) To be represented by an attorney to the same extent as a person having his or her own counsel is so entitled; and
 - (b) Except as provided in subsection (2)(c) of this section, to be provided with the necessary services and facilities of representation, including investigation and other preparation. The courts in which the defendant is tried shall waive all costs.
- (2) A needy person who is entitled to be represented by an attorney under subsection (1) of this section is entitled:
 - (a) To be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his or her own counsel would be entitled to be represented by an attorney and including revocation of probation or parole;
 - (b) To be represented in any appeal; and
 - (c) To be represented in any other post-conviction, or, if a minor under the age of eighteen (18), post-disposition proceeding, including any appeal from a post-conviction or post-disposition action. However, if the department and the court of competent jurisdiction determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his or her own expense, there shall be no further right to be represented by counsel under the provisions of this chapter. In cases involving a minor under the age of eighteen (18), prior to making a determination on whether or not a post-disposition action is a proceeding that a reasonable person with adequate means would be willing to bring at his or her own expense, an attorney with the department shall be granted access to the court file of the minor:
 1. Without the requirement of a formal court order in which the attorney has provided a release signed by the minor or the minor's legal guardian authorizing the use of the records; and
 2. Notwithstanding any other statute prohibiting the disclosure of a juvenile court file.
- (3) A needy person's right to a benefit under subsection (1) or (2) of this section is not affected by his or her having provided a similar benefit at his or her own expense, or by he or she having waived it, at an earlier stage.
- (4) A person, whether a needy person or not, who is a minor under the age of eighteen (18) and who is in the custody of the Department of Juvenile Justice and is residing in a residential treatment center or detention center is entitled to

be represented on a legal claim related to his or her confinement involving violations of federal or state statutory rights or constitutional rights. Prior to representation, an attorney with the department shall be granted access to the court file of the minor and residential treatment center or detention center records pertaining to the juvenile:

- (a) Without entering an appearance as an attorney of record; and
 - (b) Notwithstanding any other statute prohibiting the disclosure of a juvenile's record, including KRS 15A.0651, 610.320, 610.340, or 610.345.
- (5) A person, whether a needy person or not, who is subject to a proceeding under KRS Chapter 202C and is unrepresented at any time shall be entitled to the same rights of representation as a needy person under subsection (1) of this section.

Effective: April 1, 2021

History: Amended 2021 Ky. Acts ch. 175, sec. 23, effective April 1, 2021. -- Amended 2014 Ky. Acts ch. 87, sec. 3, effective July 15, 2014. -- Amended 2008 Ky. Acts ch. 87, sec. 15, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 99, sec. 101, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 283, sec. 11, effective July 15, 2002. -- Created 1972 Ky. Acts ch. 353, sec. 11.